IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY**

**and**
**THE HON'BLE MR JUSTICE C.V.RAMULU**

**WRIT APPEAL NO : 385 of 2005**

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 20/01/2005 in WP No:14242 OF 1991 on the file of the High Court.)

Between:

1 Meharnosh H. Chenoy, S/o. Late Hoshang S. Chenoy,
R/o. 8-2-269/4, Road No.2, Banjara Hills, Hyderabad.
2 Nauzar Chenoy, S/o. Naoshir S. Chenoy,
R/o. 43, Mc-in-Tyre Road, Prenderghast, Secunderabad.

**..... APPELLANTS**

AND

1 State of Andhra Pradesh, Rep. by its Principal Secretary to

Government (Revenue)
2 The Special Deputy Collector, LA (GEN), Hyderabad.
3 Union of India, Rep. by Secretary Ministry of Civil Aviation,
New Delhi.
4 Hyderabad Airport Authority, Rep. by its Director General, Begumpet

Airport, Hyderabad.

**.....RESPONDENTS**

**Counsel for the Appellants: MR.VILAS V.AFZULPURKAR**

**Counsel for the Respondent Nos 1 & 2: GP FOR LAND ACQUISITION**

**Counsel for the Respondent Nos 3&4 :Mr.A.Rajasekhar Reddy**

**The Court at the stage of admission made the following:**

**ORAL ORDER: (Per Sri BRSR.J)**

The Writ Appellants invoked the jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to direct the respondents to initiate land acquisition proceedings afresh by publication of requisite notifications and declarations so that an award is made in terms of the provisions of the Land Acquisition Act, 1894 (for short 'the Act) with respect to the land in S.No.171 Mazi Survey No.37 of Thokatta village.

It is unnecessary to notice the facts in detail, which have been succinctly noticed by the learned single Judge as is evident from the order under appeal. Even according to the submissions made by the learned counsel for the appellants, the appellants have lost the possession of the land in the year 1961 but as per the record it appears that the authorities took over possession of the land from the erstwhile Board of Revenue in or about 1948 for the extension of the Airport. In April 1956 itself, a claim petition was filed by the father of petitioner No.1, father of Petitioner No.2 and Rustomji Jamshedji Chenoy claiming compensation for the land acquired. Thereafter, the appellants went on making representations. The Board of Revenue issued directions in B.P.Rt.No.3374/76 dated 24.9.1976 directing the Special Deputy Collector to settle the claim and to pass the award. That in spite of such a direction, the Special Deputy Collector, Hyderabad did not pass any award. It is not as if the petitioners were not aware of their losing possession of the land and its utilization by the authorities concerned at least by 1956. The learned single Judge having noticed all the relevant facts found that there is no explanation coming forth from the appellants herein explaining the delay, at least for a period of 43 years in filing the writ petition.

In this writ appeal, Sri Vilas V.Afzalpurkar, learned counsel for the appellants made an attempt to rely upon a letter from the Commissioner of Land Revenue dated 2.5.1990, which according to the learned counsel finally resulted in rejecting the claim of the appellants and immediately thereafter the appellants filed the writ petition in the year 1991 and therefore there is no delay in filing the writ petition. Admittedly, the letter dated 2.5.1990 is not communicated to the appellants. Learned counsel for the appellants submitted that on verification he found one such letter in the records. In our considered opinion, the submission made by the learned counsel

for the appellants cannot be accepted since the letter dated 2.5.1990 was never communicated to the appellants herein so that the Court can construe as if the cause of action had arisen only in the year 1990.

Learned counsel for the appellants however placed reliance upon the decision of the Supreme Court in ***DEHRI ROHTAS LIGHT RLY CO,. vs. DIST.BOARD, BHOJPUR*** in which the Supreme Court observed;

> "The rule which says that the Court may not enquire into belated and stale claim is not a rule of law but a rule of practice based on sound and proper exercise of discretion. Each case must depend upon its own facts. It will all depend on what the breach of the fundamental right and the remedy claimed are and how delay arose. The principle on which the relief to the party on the grounds of laches or delay is denied is that the rights, which have accrued to others by reason of the delay in filing the petition should not be allowed to be disturbed unless there is a reasonable explanation for the delay. The real test to determine delay in such cases is that the petitioner should come to the writ court before a parallel right is created and that the lapse of time is not attributable to any laches or negligence."

Learned counsel for the appellant also relied upon a Division Bench Judgment of this court reported in ***STAC v. ANDHRA UNIVERSITY*** in which it is observed that the question of delay is not a rule of law but a rule of practice based on sound and proper exercise of discretion. Each case must depend upon its own facts, there is no upper or lower limit for the delay and no period of limitation is prescribed for filing the writ petition.

There is no dispute with the proposition. But the question is whether there is any satisfactory explanation offered by the appellants in the instant case for the delay on their part in approaching this Court. The learned single Judge after an elaborate consideration of the matter and after referring to the Board of Revenue proceedings dated 24.9.1976 held that even if the same is required to be taken into consideration, there is no explanation at all given by the appellants as to why they slept over the matter for a period of 43 years. The learned Judge observed;

> "There are no reasons given at all in the writ petition as to why petitioners slept over the matter for a period of 43 years. Even if it is considered that they made an application in 1956 to the respondents, even then, the question remains unanswered as to what happened after 1956. Even if it is also accepted that the Board of Revenue had asked the Collector to

take steps in the matter, even then, the question remains unanswered as to what steps the petitioners took to get the compensation if their lands were acquired. Therefore, in my opinion, the case was hit by laches."

We are in complete agreement with the view taken by the learned single Judge for dismissing the writ petition on the ground of laches. We find no merit in the writ appeal and the same shall accordingly stand dismissed. No costs.

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(B.SUDERSHAN REDDY,J)

Dated 22..03..2005

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(C.V.RAMULU,J)

msv

To

1 The Principal Secretary to Government (Revenue)
State of Andhra Pradesh, Hyderabad

2 The Special Deputy Collector, LA (GEN), Hyderabad.
3 The Secretary, Ministry of Civil Aviation,
Union of India, New Delhi.
4 The Director General, Begumpet Airport, Hyderabad Airport Authority,

Hyderabad.

5 2 CCs to the Government Pleader for Land Acquisition, High Court

Buildings, High Court of A.P. Hyderabad (OUT)

6 2 CD copies.